

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1, 2, 4, 5, 8, 10 and 11 are pending in the application. Currently, all claims stand rejected.

By the present amendment, claims 1 and 5 have been amended.

In the office action mailed November 20, 2006, claims 1 - 2, 4 - 5, 8, and 10 - 11 were rejected under 35 U.S.C. 112, first paragraph; claims 1, 4, 8 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,594,037 to Sherman in view of U.S. Patent No. 1,231,129 to Cluff; claims 2 and 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Cluff and further in view of U.S. Patent No. 5,026,118 to Vander Stel et al.; and claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman in view of Cluff and further in view of U.S. Patent No. 928,929.

The foregoing rejections are traversed by the following comments.

The Examiner's objection at the top of page 2 of the office action is duly noted. It is not understood how claim 1 could be in improper dependent form since it is an independent claim. With respect to the antecedent basis issue, claim 1 has been amended to provide proper antecedent basis. It is believed that the amendment to claim 1 obviates this objection.

With respect to the rejection based upon 35 U.S.C. 112, first paragraph, the issue is now moot in view of the amendment of claim 1 to delete any reference to an arm mounted so that it can slide in a rail secured to the seat.

Claim 1 as amended herein calls for a chair with a seat that folds down about a fixed horizontal axle and which is

intended, in particular, to equip halls that receive the public, such as lecture theatres and/or show halls. The chair comprises at least an underframe having an essentially longitudinal axis and to which a backrest may be fixed, and with respect to which the fixed horizontal axle is determined. The seat comprises a first part projecting forwards with respect to the fixed horizontal axle, and a second part projecting towards the underframe. The underframe contains a gas strut, one end of which is fixed to the second part of said seat.

Claim 1 in its current form has been granted by the European Patent Office.

The Sherman patent describes a chair with a seat (20) that folds down about an axle or pivot point (24) and an underframe (10). The seat (20) comprises a first part projecting forwards with respect to the horizontal axle (24), and a second part projecting toward the underframe (10). The underframe (10) contains a gas strut (94) one end of which is fixed to the underframe (10) and the other end of which is fixed to the second part of the seat (20). The horizontal axle (24) is carried by an arm (28).

A review of Sherman however shows that the axis (24) is not fixed with respect to the underframe. This can be seen by looking at FIGS. 2 - 4 and FIGS. 5 and 6 of Sherman. Thus, the mechanism according to Sherman is more complex because the axis (24) is carried by a mobile arm.

In fact, the axle (24) of Sherman cannot be fixed with respect to the underframe. Indeed, the seat (20) has extended arms (32) which terminate in rollers (34) adapted to ride within vertical guides (36) connected to mounting frame (12). This feature is incompatible with a chair having a seat that folds down about a fixed horizontal axis.

The Cluff patent describes a chair with a seat that folds down about hinges (11) and an arm (29) which is free to rotate about a first of its end which is fixed to the underframe and another end of the arm is mounted so that it can slide in a rail secured to the seat. This chair however does not contain a strut and the arm does not carry a horizontal axle about which the seat folds down.

Applicant submits that Cluff does not cure the aforesaid deficiencies of Sherman. As a result, even if these references were properly combinable, the combination would not result in a chair having all the features set forth in amended claim 1. For this reason, claim 1 as amended is believed to be allowable.

Claims 4, 8 and 10 are allowable for the same reasons as claim 1 as well as on their own accord.

With regard to the obviousness rejections of claims 2, 5, and 11, the Vander Stel et al. and Betherum references do not cure the aforesaid deficiencies of Sherman and Cluff. Thus, claims 2, 5, and 11 are allowable for the same reasons that claim 1 is allowable as well as on their own accord.

The instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Entry of the instant amendment is appropriate since it does not raise any new issue which would require further consideration and search on the part of the Examiner. Still further, it does not raise any issue of new matter and does reduce the issues on appeal.

A notice of appeal is appended hereto in the event that the Examiner maintains the rejection of record. A two month extension of time request is also appended hereto. The Director is hereby authorized to charge the notice of appeal and extension of time fees to Deposit Account No. 02-0184.



Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicant's attorney at the telephone number listed below.

Should the Director determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

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I, Karen M. Gill, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on April 18, 2007.